

Chapter 8

Compliance and Enforcement

- 8-1 CODE APPLICABILITY
- 8-2 PLAN SUBMISSION AND APPROVAL
- 8-3 PERMIT TO OPERATE
- 8-4 INSPECTION AND CORRECTION OF VIOLATIONS
- 8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES
- 8-6 ENFORCEMENT

8-1 CODE APPLICABILITY

Subparts

- | | |
|-------|--------------------------|
| 8-101 | Use for Intended Purpose |
| 8-102 | Additional Requirements |
| 8-103 | Variances |

Use for Intended Purpose

8-101.10 Public Health Protection.

(A) The REGULATORY AUTHORITY shall apply this Code to promote its underlying purpose, as specified in § 1-102.10, of safeguarding public health and ensuring that FOOD is safe, UNADULTERATED, and honestly presented when offered to the CONSUMER.

(B) In enforcing the provisions of this Code, the REGULATORY AUTHORITY shall assess existing facilities or EQUIPMENT that were in use before the effective date of this Code based on the following considerations:

- (1) Whether the facilities or EQUIPMENT are in good repair and capable of being maintained in a sanitary condition;
- (2) Whether FOOD-CONTACT SURFACES comply with Subpart 4-101;
- (3) Whether the capacities of cooling, heating, and holding EQUIPMENT are sufficient to comply with § 4-301.11; and
- (4) The existence of a documented agreement with the PERMIT HOLDER that the facilities or EQUIPMENT will be replaced as specified under ¶ 8-304.11(G) or upgraded or replaced as specified under ¶ 8-304.11(H).

Additional Requirements

8-102.10 Preventing Health Hazards, Provision for Conditions Not Addressed.

(A) If necessary to protect against public health HAZARDS or nuisances, the REGULATORY AUTHORITY may impose specific requirements in addition to the requirements contained in this Code that are authorized by LAW.

(B) The REGULATORY AUTHORITY shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the PERMIT applicant or PERMIT HOLDER and a copy shall be maintained in the REGULATORY AUTHORITY'S file for the FOOD ESTABLISHMENT.

Variances

8-103.10 Modifications and Waivers.

The REGULATORY AUTHORITY may grant a VARIANCE by modifying or waiving the requirements of this Code if in the opinion of the REGULATORY AUTHORITY a health HAZARD or nuisance will not result from the VARIANCE. If a VARIANCE is granted, the REGULATORY AUTHORITY shall retain the information specified under § 8-103.11 in its records for the FOOD ESTABLISHMENT.

- (A) A statement of the proposed VARIANCE of the Code requirement citing relevant Code section numbers;
- (B) An analysis of the rationale for how the potential public health HAZARDS and nuisances addressed by the relevant Code sections will be alternatively addressed by the proposal; and
- (C) A HACCP PLAN if required as specified under ¶ 8-201.13(A) that includes the information specified under § 8-201.14 as it is relevant to the VARIANCE requested.

8-103.11 Documentation of Proposed Variance and Justification.

Before a VARIANCE from a requirement of this Code is APPROVED, the information that shall be provided by the PERSON requesting the VARIANCE and retained in the REGULATORY AUTHORITY'S file on the FOOD ESTABLISHMENT includes:

- (A) A statement of the proposed VARIANCE of the Code requirement citing relevant Code section numbers;
- (B) An analysis of the rationale for how the potential public health HAZARDS and nuisances addressed by the relevant Code sections will be alternatively addressed by the proposal; and
- (C) A HACCP PLAN if required as specified under ¶ 8-201.13(A) that includes the information specified under § 8-201.14 as it is relevant to the VARIANCE requested.

8-103.12 Conformance with Approved Procedures.

If the REGULATORY AUTHORITY grants a VARIANCE as specified in § 8-103.10, or a HACCP PLAN is otherwise required as specified under § 8-201.13, the PERMIT HOLDER shall:

- (A) Comply with the HACCP PLANS and procedures that are submitted as specified under § 8-201.14 and APPROVED as a basis for the modification or waiver; and
- (B) Maintain and provide to the REGULATORY AUTHORITY, upon request, records specified under ¶¶ 8-201.14(D) and (E) that demonstrate that the following are routinely employed;
 - (1) Procedures for monitoring CRITICAL CONTROL POINTS,
 - (2) Monitoring of the CRITICAL CONTROL POINTS,
 - (3) Verification of the effectiveness of an operation or process, and
 - (4) Necessary corrective actions if there is failure at a CRITICAL CONTROL POINT.

8-2 PLAN SUBMISSION AND APPROVAL

Subparts

- | | |
|--------------|---|
| 8-201 | Facility and Operating Plans |
| 8-202 | Confidentiality |
| 8-203 | Construction Inspection and Approval |

Facility and Operating Plans

8-201.11 When Plans Are Required.

A PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY properly prepared plans and specifications for review and approval before:

- (A) The construction of a FOOD ESTABLISHMENT;
- (B) The conversion of an existing structure for use as a FOOD ESTABLISHMENT; or
- (C) The remodeling of a FOOD ESTABLISHMENT or a change of type of FOOD ESTABLISHMENT or FOOD operation as specified under ¶ 8-302.14(C) if the REGULATORY AUTHORITY determines that plans and specifications are necessary to ensure compliance with this Code.

8-201.12 Contents of the Plans and Specifications.

The plans and specifications for a FOOD ESTABLISHMENT, including a FOOD ESTABLISHMENT specified under § 8-201.13, shall include, as required by the REGULATORY AUTHORITY based on the type of operation, type of FOOD preparation, and FOODS prepared, the following information to demonstrate conformance with Code provisions:

- (A) Intended menu;
- (B) Anticipated volume of FOOD to be stored, prepared, and sold or served;
- (C) Proposed layout, mechanical schematics, construction materials, and finish schedules;
- (D) Proposed EQUIPMENT types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
- (E) Evidence that standard procedures that ensure compliance with the requirements of this Code are developed or are being developed; and
- (F) Other information that may be required by the REGULATORY AUTHORITY for the proper review of the proposed construction, conversion or modification, and procedures for operating a FOOD ESTABLISHMENT.

8-201.13 When a HACCP Plan is Required.

(A) Before engaging in an activity that requires a HACCP PLAN, a PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY for approval a properly prepared HACCP PLAN as specified under § 8-201.14 and the relevant provisions of this Code if:

- (1) Submission of a HACCP PLAN is required according to LAW;
- (2) A VARIANCE is required as specified under § 3-502.11, ¶ 4-204.110(B), or Subparagraph 3-401.11(D)(3); or
- (3) The REGULATORY AUTHORITY determines that a FOOD preparation or processing method requires a VARIANCE based on a plan submittal specified under § 8-201.12, an inspectional finding, or a VARIANCE request.

(B) A PERMIT applicant or PERMIT HOLDER shall have a properly prepared HACCP PLAN as specified under § 3-502.12.

8-201.14 Contents of a HACCP Plan.

For a FOOD ESTABLISHMENT that is required under § 8-201.13 to have a HACCP PLAN, the plan and specifications shall indicate:

- (A) A categorization of the types of POTENTIALLY HAZARDOUS FOODS that are specified in the menu such as soups and sauces, salads, and bulk, solid FOODS such as MEAT roasts, or of other FOODS that are specified by the REGULATORY AUTHORITY;
- (B) A flow diagram by specific FOOD or category type identifying CRITICAL CONTROL POINTS and providing information on the following:
 - (1) Ingredients, materials, and EQUIPMENT used in the preparation of that FOOD, and
 - (2) Formulations or recipes that delineate methods and procedural control measures that address the FOOD safety concerns involved;
- (C) FOOD EMPLOYEE and supervisory training plan that addresses the FOOD safety issues of concern;
- (D) A statement of standard operating procedures for the plan under consideration including clearly identifying:
 - (1) Each CRITICAL CONTROL POINT,
 - (2) The CRITICAL LIMITS for each CRITICAL CONTROL POINT,
 - (3) The method and frequency for monitoring and controlling each CRITICAL CONTROL POINT by the FOOD EMPLOYEE designated by the PERSON IN CHARGE,
 - (4) The method and frequency for the PERSON IN CHARGE to routinely verify that the FOOD EMPLOYEE is following standard operating procedures and monitoring CRITICAL CONTROL POINTS,
 - (5) Action to be taken by the PERSON IN CHARGE if the CRITICAL LIMITS for each CRITICAL CONTROL POINT are not met, and
 - (6) Records to be maintained by the PERSON IN CHARGE to demonstrate that the HACCP PLAN is properly operated and managed; and
- (E) Additional scientific data or other information, as required by the REGULATORY AUTHORITY, supporting the determination that FOOD safety is not compromised by the proposal.

Trade Secrets

8-202.10 Trade Secrets.

The REGULATORY AUTHORITY shall treat as confidential in accordance with LAW, information that meets the criteria specified in LAW for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under §§ 8-201.12 and 8-201.14.

Construction Inspection and Approval

8-203.10 Preoperational Inspections.

The REGULATORY AUTHORITY shall conduct one or more preoperational inspections to verify that the FOOD ESTABLISHMENT is constructed and equipped in accordance with the APPROVED plans and APPROVED modifications of those plans, has established standard operating procedures as specified under ¶ 8-201.12(E), and is in compliance with LAW and this Code.

8-3 PERMIT TO OPERATE

Subparts

8-301	Requirement
8-302	Application Procedure
8-303	Issuance
8-304	Conditions of Retention

Requirement

8-301.11 Prerequisite for Operation.

A PERSON may not operate a FOOD ESTABLISHMENT without a valid PERMIT to operate issued by the REGULATORY AUTHORITY.

Permit Exemption

8-301.12 Exempt from Permit. [Amended by WAC 246-215-191]

(A) The REGULATORY AUTHORITY may exempt a PERSON from the provisions of WAC 246-215-200(1) and section 8-301.11 of this Code in order to operate without a FOOD ESTABLISHMENT PERMIT, provided that the PERSON meets the other provisions of this Code, including not using any FOOD prepared in a residential kitchen or other nonAPPROVED facility, and the types of FOOD served are limited to those specified in Paragraph (D) of this section.

(B) The PERSON requesting a PERMIT exemption under Paragraph (A) of this section must submit a written application for an exemption on a form provided by the REGULATORY AUTHORITY at least fourteen calendar days before providing FOOD service, or as otherwise required by the REGULATORY AUTHORITY.

(C) The PERSON requesting a PERMIT exemption under Paragraph (A) of this section must submit properly prepared plans and specifications of the FOOD service facilities and EQUIPMENT if the REGULATORY AUTHORITY requires it, based on a review of the application for an exemption submitted under Paragraph (B) of this section.

(D) The PERSON requesting a PERMIT exemption under Paragraph (A) of this section must limit FOOD handling to one or more of the following FOODS:

- (1) Popcorn and flavored popcorn;
- (2) Cotton candy;
- (3) Dried herbs and spices processed in an APPROVED facility;
- (4) Machine-crushed ice drinks containing nonPOTENTIALLY HAZARDOUS ingredients and made with ice from an APPROVED source;
- (5) Corn on the cob;
- (6) Whole peppers roasted for IMMEDIATE SERVICE;
- (7) Roasted nuts and roasted candy-coated nuts;
- (8) Deep-fried pork skins prepared from pork skins rendered at a FOOD PROCESSING PLANT;
- (9) Caramel apples;
- (10) Chocolate-dipped ice cream bars prepared from prePACKAGED ice cream bars produced in a FOOD PROCESSING PLANT;
- (11) Chocolate-dipped bananas prepared from bananas peeled and frozen in an APPROVED facility; and
- (12) Individual samples of nonPOTENTIALLY HAZARDOUS sliced fruits and vegetables.

Application Procedure

8-302.11 Submission 30 Calendar Days Before Proposed Opening.

An applicant shall submit an application for a PERMIT at least 30 calendar days before the date planned for opening a FOOD ESTABLISHMENT or the expiration date of the current PERMIT for an existing facility.

8-302.12 Form of Submission.

A PERSON desiring to operate a FOOD ESTABLISHMENT shall submit to the REGULATORY AUTHORITY a written application for a PERMIT on a form provided by the REGULATORY AUTHORITY.

8-302.13 Qualifications and Responsibilities of Applicants.

To qualify for a PERMIT, an applicant shall:

- (A) Be an owner of the FOOD ESTABLISHMENT or an officer of the legal ownership;
- (B) Comply with the requirements of this Code;
- (C) As specified under § 8-402.11, agree to allow access to the FOOD ESTABLISHMENT and to provide required information; and
- (D) Pay the applicable PERMIT fees at the time the application is submitted.

8-302.14 Contents of the Application.

The application shall include:

- (A) The name, birth date, mailing address, telephone number, and signature of the PERSON applying for the PERMIT and the name, mailing address, and location of the FOOD ESTABLISHMENT;
- (B) Information specifying whether the FOOD ESTABLISHMENT is owned by an association, corporation, individual, partnership, or other legal entity;
- (C) A statement specifying whether the FOOD ESTABLISHMENT:
 - (1) Is mobile or stationary and temporary or permanent, and
 - (2) Is an operation that includes one or more of the following:
 - (a) Prepares, offers for sale, or serves POTENTIALLY HAZARDOUS FOOD:
 - (i) Only to order upon a CONSUMER'S request,
 - (ii) In advance in quantities based on projected CONSUMER demand and discards FOOD that is not sold or served at an APPROVED frequency, or
 - (iii) Using time as the public health control as specified under § 3-501.19,
 - (b) Prepares POTENTIALLY HAZARDOUS FOOD in advance using a FOOD preparation method that involves two or more steps which may include combining POTENTIALLY HAZARDOUS ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing,
 - (c) Prepares FOOD as specified under Subparagraph (C)(2)(b) of this section for delivery to and consumption at a location off the PREMISES of the FOOD ESTABLISHMENT where it is prepared,
 - (d) Prepares FOOD as specified under Subparagraph (C)(2)(b) of this section for service to a HIGHLY SUSCEPTIBLE POPULATION,
 - (e) Prepares only FOOD that is not POTENTIALLY HAZARDOUS, or
 - (f) Does not prepare, but offers for sale only prePACKAGED FOOD that is not POTENTIALLY HAZARDOUS;
- (D) The name, title, address, and telephone number of the PERSON directly responsible for the FOOD ESTABLISHMENT;
- (E) The name, title, address, and telephone number of the PERSON who functions as the immediate supervisor of the PERSON specified under ¶ (D) of this section such as the zone, district, or regional supervisor;
- (F) The names, titles, and addresses of:
 - (1) The PERSONS comprising the legal ownership as specified under ¶ (B) of this section including the owners and officers, and
 - (2) The local resident agent if one is required based on the type of legal ownership;
- (G) A statement signed by the applicant that:
 - (1) Attests to the accuracy of the information provided in the application, and
 - (2) Affirms that the applicant will:
 - (a) Comply with this Code, and
 - (b) Allow the REGULATORY AUTHORITY access to the establishment as specified under § 8-402.11 and to the records specified under §§ 3-203.12 and 5-205.13 and Subparagraph 8-201.14(D)(6); and
- (H) Other information required by the REGULATORY AUTHORITY.

Issuance

8-303.10 New, Converted, or Remodeled Establishments.

For FOOD ESTABLISHMENTS that are required to submit plans as specified under § 8-201.11 the REGULATORY AUTHORITY shall issue a PERMIT to the applicant after:

- (A) A properly completed application is submitted;
- (B) The required fee is submitted;
- (C) The required plans, specifications, and information are reviewed and APPROVED; and
- (D) A preoperational inspection as specified in § 8-203.10 shows that the establishment is built or remodeled in accordance with the APPROVED plans and specifications and that the establishment is in compliance with this Code.

8-303.20 Existing Establishments, Permit Renewal, and Change of Ownership.

The REGULATORY AUTHORITY may renew a PERMIT for an existing FOOD ESTABLISHMENT or may issue a PERMIT to a new owner of an existing FOOD ESTABLISHMENT after a properly completed application is submitted, reviewed, and APPROVED, the fees are paid, and an inspection shows that the establishment is in compliance with this Code.

8-303.30 Denial of Application for Permit, Notice.

If an application for a PERMIT to operate is denied, the REGULATORY AUTHORITY shall provide the applicant with a notice that includes:

- (A) The specific reasons and Code citations for the PERMIT denial;
- (B) The actions, if any, that the applicant must take to qualify for a PERMIT; and
- (C) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in LAW.

Conditions of Retention

8-304.10 Responsibilities of the Regulatory Authority.

(A) At the time a PERMIT is first issued, the REGULATORY AUTHORITY shall provide to the PERMIT HOLDER a copy of this Code so that the PERMIT HOLDER is notified of the compliance requirements and the conditions of retention, as specified under § 8-304.11, that are applicable to the PERMIT.

(B) *Failure to provide the information specified in ¶ (A) of this section does not prevent the REGULATORY AUTHORITY from taking authorized action or seeking remedies if the PERMIT HOLDER fails to comply with this Code or an order, warning, or directive of the REGULATORY AUTHORITY.*

8-304.11 Responsibilities of the Permit Holder.

Upon acceptance of the PERMIT issued by the REGULATORY AUTHORITY, the PERMIT HOLDER in order to retain the PERMIT shall:

- (A) Post the PERMIT in a location in the FOOD ESTABLISHMENT that is conspicuous to CONSUMERS;
- (B) Comply with the provisions of this Code including the conditions of a granted VARIANCE as specified under § 8-103.12, and approved plans as specified under § 8-201.12;
- (C) If a FOOD ESTABLISHMENT is required under § 8-201.13 to operate under a HACCP PLAN, comply with the plan as specified under § 8-103.12;
- (D) Immediately contact the REGULATORY AUTHORITY to report an illness of a FOOD EMPLOYEE as specified under ¶ 2-201.11(C);
- (E) Immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD may exist as specified under § 8-404.11;
- (F) Allow representatives of the REGULATORY AUTHORITY access to the FOOD ESTABLISHMENT as specified under § 8-402.11;
- (G) Except as specified under ¶ (H) of this section, replace existing facilities and EQUIPMENT specified in § 8-101.10 with facilities and EQUIPMENT that comply with this Code if:
 - (1) The REGULATORY AUTHORITY directs the replacement because the facilities and EQUIPMENT constitute a public health HAZARD or nuisance or no longer comply with the criteria upon which the facilities and EQUIPMENT were accepted, *or*
 - (2) The facilities and EQUIPMENT are replaced in the normal course of operation. *[Amended by WAC 246-215-181(1)]*
- (H) Upgrade or replace refrigeration EQUIPMENT as specified under ¶ 3-501.16(A)(2)(b), if the circumstances specified under Subparagraphs (G)(1)-(2) of this section do not occur first, and 5 years pass after the REGULATORY AUTHORITY adopts this Code;
- (I) Comply with directives of the REGULATORY AUTHORITY including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the REGULATORY AUTHORITY in regard to the PERMIT HOLDER'S FOOD ESTABLISHMENT or in response to community emergencies;
- (J) Accept notices issued and served by the REGULATORY AUTHORITY according to LAW; and
- (K) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in LAW for failure to comply with this Code or a directive of the REGULATORY AUTHORITY, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

8-304.20 Permits Not Transferable.

A PERMIT may not be transferred from one PERSON to another PERSON, from one FOOD ESTABLISHMENT to another, or from one type of operation to another if the FOOD operation changes from the type of operation specified in the application as specified under ¶ 8-302.14(C) and the change in operation is not APPROVED.

8-4 INSPECTION AND CORRECTION OF VIOLATIONS

Subparts

8-401	Frequency
8-402	Access
8-403	Report of Findings
8-404	Imminent Health Hazard

Frequency

8-401.10 Establishing Inspection Interval.

(A) Except as specified in ¶¶ (B) and (C) of this section, the REGULATORY AUTHORITY shall inspect a FOOD ESTABLISHMENT at least once every 6 months.

(B) *The REGULATORY AUTHORITY may increase the interval between inspections beyond 6 months if:*

(1) The FOOD ESTABLISHMENT is fully operating under an APPROVED and validated HACCP PLAN as specified under § 8-201.14 and ¶¶ 8-103.12(A) and (B);

(2) *The FOOD ESTABLISHMENT is assigned a less frequent inspection frequency based on a written RISK-based inspection schedule developed by the REGULATORY AUTHORITY, or set by state or federal LAW, and uniformly applied throughout the jurisdiction; or [Amended by WAC 246-215-181(2)]*

(3) *The establishment's operation involves only coffee service and other UNPACKAGED or prePACKAGED FOOD that is not POTENTIALLY HAZARDOUS such as carbonated BEVERAGES and snack FOOD such as chips, nuts, popcorn, and pretzels.*

(C) The REGULATORY AUTHORITY shall inspect a TEMPORARY FOOD ESTABLISHMENT during its PERMIT period, unless the REGULATORY AUTHORITY develops a written RISK-based plan for exempting certain categories of TEMPORARY FOOD ESTABLISHMENTS from inspection that is uniformly applied throughout the jurisdiction. [Amended by WAC 246-215-181(3)]

8-401.20 Performance- and Risk-Based.

Within the parameters specified in § 8-401.10, the REGULATORY AUTHORITY shall prioritize, and conduct more frequent inspections based upon its assessment of a FOOD ESTABLISHMENT's history of compliance with this Code and the establishment's potential as a vector of foodborne illness by evaluating:

(A) Past performance, for nonconformance with Code or HACCP PLAN requirements; [Amended by WAC 246-215-181(4)]

(B) Past performance, for numerous or repeat violations of Code or HACCP PLAN requirements; [Amended by WAC 246-215-181(5)]

(C) Past performance, for complaints investigated and found to be valid;

(D) The HAZARDS associated with the particular FOODS that are prepared, stored, or served;

(E) The type of operation including the methods and extent of FOOD storage, preparation, and service;

(F) The number of people served;

(G) Whether the population served is a HIGHLY SUSCEPTIBLE POPULATION; and

(H) Whether the establishment is properly implementing an APPROVED self-inspection program. [Amended by WAC 246-215-181(6)]

Access

8-402.11 Allowed at Reasonable Times after Due Notice.

After the REGULATORY AUTHORITY presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the PERSON IN CHARGE shall allow the REGULATORY AUTHORITY to determine if the FOOD ESTABLISHMENT is in compliance with this Code by allowing access to the establishment, allowing inspection, and providing information and records specified in this Code and to which the REGULATORY AUTHORITY is entitled according to LAW, during the FOOD ESTABLISHMENT's hours of operation and other reasonable times.

8-402.20 Refusal, Notification of Right to Access, and Final Request for Access.

If a PERSON denies access to the REGULATORY AUTHORITY, the REGULATORY AUTHORITY shall:

(A) Inform the PERSON that:

(1) The PERMIT HOLDER is required to allow access to the REGULATORY AUTHORITY as specified under § 8-402.11 of this Code,

(2) Access is a condition of the acceptance and retention of a FOOD ESTABLISHMENT PERMIT to operate as specified under ¶ 8-304.11(F); and [Amended by WAC 246-215-181(7)]

(B) Make a final request for access.

8-402.30 Refusal, Reporting.

If after the REGULATORY AUTHORITY presents credentials and provides notice as specified under § 8-402.11, explains the authority upon which access is requested, and makes a final request for access as specified in § 8-402.20, the PERSON IN CHARGE continues to REFUSE access, the REGULATORY AUTHORITY shall provide details of the denial of access on an inspection report form.

8-402.40 Inspection Order to Gain Access. [Deleted by WAC 246-215-181(7)]

8-403.10 Documenting Information and Observations.

The REGULATORY AUTHORITY shall document on an inspection report form [APPROVED by the Department of Health: \[Amended by WAC 246-215-181\(8\)\]](#)

(A) Administrative information about the FOOD ESTABLISHMENT's legal identity, street and mailing addresses, type of establishment and operation as specified under ¶ 8-302.14(C), inspection date, and other information such as type of water supply and SEWAGE disposal, status of the PERMIT, and personnel certificates that may be required; and

(B) Specific factual observations of violative conditions or other deviations from this Code that require correction by the PERMIT HOLDER including:

(1) Failure of the PERSON IN CHARGE to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this Code specified under § 2-102.11,

(2) Failure of FOOD EMPLOYEES and the PERSON IN CHARGE to demonstrate knowledge of their responsibility to report a disease or medical condition, [\[Amended by WAC 246-215-181\(9\)\]](#)

(3) Nonconformance with this Code, [\[Amended by WAC 246-215-181\(10\)\]](#)

(4) Failure of the appropriate FOOD EMPLOYEES to demonstrate their knowledge of, and ability to perform in accordance with the procedural, monitoring, verification, and corrective action practices required by the REGULATORY AUTHORITY as specified under § 8-103.12,

(5) Failure of the PERSON IN CHARGE to provide records required by the REGULATORY AUTHORITY for determining conformance with a HACCP PLAN as specified under Subparagraph 8-201.14(D)(6), and

(6) Nonconformance with CRITICAL LIMITS of a HACCP PLAN.

8-403.20 Specifying Time Frame for Corrections.

The REGULATORY AUTHORITY shall specify on the inspection report form the time frame for correction of any violations. [\[Amended by WAC 246-215-181\(11\)\]](#)

8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt.

At the conclusion of the inspection and according to LAW, the REGULATORY AUTHORITY shall provide a copy of the completed inspection report and the notice to correct violations to the PERMIT HOLDER or to the PERSON IN CHARGE, and request a signed acknowledgment of receipt.

8-403.40 Refusal to Sign Acknowledgment.

The REGULATORY AUTHORITY shall:

(A) Inform a PERSON who declines to sign an acknowledgment of receipt of inspectional findings as specified in § 8-403.30 that:

(1) An acknowledgment of receipt is not an agreement with findings,

(2) Refusal to sign an acknowledgment of receipt will not affect the PERMIT HOLDER's obligation to correct the violations noted in the inspection report within the time frames specified, and

(3) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the REGULATORY AUTHORITY's historical record for the FOOD ESTABLISHMENT; and

(B) Make a final request that the PERSON IN CHARGE sign an acknowledgment receipt of inspectional findings.

8-403.50 Public Information.

Except as specified in § 8-202.10, the REGULATORY AUTHORITY shall treat the inspection report as a public document and shall make it available for disclosure to a PERSON who requests it as provided in LAW.

**Imminent
Health
Hazard**

8-404.11 Ceasing Operations and Reporting.

(A) Except as specified in ¶ (B) of this section, a PERMIT HOLDER shall immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, SEWAGE backup, misuse of POISONOUS OR TOXIC MATERIALS, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

(B) A PERMIT HOLDER need not discontinue operations in an area of an establishment that is unaffected by the IMMINENT HEALTH HAZARD.

8-404.12 Resumption of Operations.

If operations are discontinued as specified under § 8-404.11 or otherwise according to LAW, the PERMIT HOLDER shall obtain approval from the REGULATORY AUTHORITY before resuming operations.

**Critical
Violation**

8-405.11 Timely Correction. [Deleted by WAC 246-215-181(12)]

8-405.20 Verification and Documentation of Correction. [Deleted by WAC 246-215-181(12)]

**Noncritical
Violation**

8-406.11 Time Frame for Correction. [Deleted by WAC 246-215-181(13)]

8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

Subpart

8-501 Investigation and Control

**Investigation
and Control**

8-501.10 Obtaining Information: Personal History of Illness, Medical Examination, and Specimen Analysis.

The REGULATORY AUTHORITY shall act when it has reasonable cause to believe that a FOOD EMPLOYEE has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through FOOD; may be a carrier of infectious agents that cause a disease that is transmissible through FOOD; or is affected with a boil, an infected wound, or acute respiratory infection, by:

- (A) Securing a confidential medical history of the EMPLOYEE suspected of transmitting disease or making other investigations as deemed appropriate; and
- (B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected EMPLOYEE and other EMPLOYEES.

8-501.20 Restriction or Exclusion of Food Employee, or Summary Suspension of Permit.

Based on the findings of an investigation related to a FOOD EMPLOYEE who is suspected of being infected or diseased, the REGULATORY AUTHORITY may issue an order to the suspected FOOD EMPLOYEE or PERMIT HOLDER instituting one or more of the following control measures:

- (A) RESTRICTING the FOOD EMPLOYEE;
- (B) EXCLUDING the FOOD EMPLOYEE; or
- (C) Closing the FOOD ESTABLISHMENT by summarily suspending a PERMIT to operate in accordance with LAW.

8-501.30 Restriction or Exclusion Order: Warning or Hearing Not Required, Information Required in Order.

Based on the findings of the investigation as specified in § 8-501.10 and to control disease transmission, the REGULATORY AUTHORITY may issue an order of RESTRICTION or EXCLUSION to a suspected FOOD EMPLOYEE or the PERMIT HOLDER without prior warning, notice of a hearing, or a hearing if the order:

- (A) States the reasons for the RESTRICTION or EXCLUSION that is ordered;
- (B) States the evidence that the FOOD EMPLOYEE or PERMIT HOLDER shall provide in order to demonstrate that the reasons for the RESTRICTION or EXCLUSION are eliminated;
- (C) States that the suspected FOOD EMPLOYEE or the PERMIT HOLDER may request an appeal hearing by submitting a timely request as provided in LAW; and
- (D) Provides the name and address of the REGULATORY AUTHORITY representative to whom a request for an appeal hearing may be made.

8-501.40 Release of Food Employee from Restriction or Exclusion.

The REGULATORY AUTHORITY shall release a FOOD EMPLOYEE from RESTRICTION or EXCLUSION according to LAW and the following conditions:

(A) A FOOD EMPLOYEE who was infected with **Salmonella Typhi** if the FOOD EMPLOYEE'S stools are negative for **S. Typhi** based on testing of at least 3 consecutive stool specimen cultures that are taken:

- (1) Not earlier than 1 month after onset,
- (2) At least 48 hours after discontinuance of antibiotics, and
- (3) At least 24 hours apart; and

(B) If one of the cultures taken as specified in ¶ (A) of this section is positive, repeat cultures are taken at intervals of 1 month until at least 3 consecutive negative stool specimen cultures are obtained.

(C) A FOOD EMPLOYEE who was infected with **Shigella** spp., SHIGA TOXIN-PRODUCING **ESCHERICHIA COLI**, or a **Salmonella** spp. other than **Salmonella Typhi** if the EMPLOYEE's stools are negative for these bacteria based on testing of 2 consecutive stool specimen cultures that are taken:

[Amended by WAC 246-215-251(10)]

- (1) Not earlier than 48 hours after discontinuance of antibiotics; and
- (2) At least 24 hours apart.

(D) A FOOD EMPLOYEE who was infected with hepatitis A virus if:

- (1) Symptoms cease; or
- (2) At least 2 blood tests show falling liver enzymes.

8-501.50 Procedure When Disease Transmission is Suspected. [WAC 246-215-260]

(A) When a possible foodborne illness incident is reported to any FOOD EMPLOYEE, the PERSON IN CHARGE of the FOOD ESTABLISHMENT must:

- (1) Immediately report the incident to the REGULATORY AUTHORITY; and
- (2) Remove from sale and refrigerate any suspect FOODS until released by the REGULATORY AUTHORITY.

(B) When the REGULATORY AUTHORITY suspects that a FOOD ESTABLISHMENT, or its EMPLOYEES, might be a source of a foodborne illness, the REGULATORY AUTHORITY must take appropriate action to control the transmission of disease. This action may include any or all of the following:

- (1) Secure records that might enable identification of PERSONS potentially exposed to the disease, and/or require additional assistance in locating such PERSONS;
- (2) Secure the illness history of each suspected EMPLOYEE;
- (3) EXCLUDE any suspected EMPLOYEE(s) from working in FOOD ESTABLISHMENTS until, in the opinion of the REGULATORY AUTHORITY, there is no further RISK of disease transmission;
- (4) Suspend the PERMIT of the FOOD ESTABLISHMENT until, in the opinion of the REGULATORY AUTHORITY, there is no further RISK of disease transmission;
- (5) RESTRICT the work activities of any suspected EMPLOYEE;
- (6) Require medical and laboratory examinations of any FOOD EMPLOYEE and of his/her body discharges;
- (7) Obtain any suspect FOOD for laboratory examination;
- (8) Require the destruction of, or placement of a hold order on, all suspect FOOD; and
- (9) Limit, substitute, or restrict menu items or FOOD handling practices that may be associated with causing illness.

(C) The provisions of chapter 246-100 WAC, Communicable and Certain Other Diseases, apply.

**When Illness
is Reported**

**When Illness
Transmission
is Suspected**

**Other
Provisions**

8-6 ENFORCEMENT

Subparts

8-601	Permits Required, Suspension, Revocation, Enforcement [WAC 246-215-200]
8-602	Service of Notice [WAC 246-215-210]
8-603	Hearings [WAC 246-215-220]

8-601.11 Permits Required, Suspension, Revocation, Enforcement. [WAC 246-215-200]

(A) Any PERSON operating a FOOD ESTABLISHMENT without a valid PERMIT issued by the REGULATORY AUTHORITY may be guilty of a misdemeanor under RCW 70.05.120 and local regulations.

(B) The REGULATORY AUTHORITY may suspend any PERMIT to operate a FOOD ESTABLISHMENT if:

- (1) Continued operation of the FOOD ESTABLISHMENT constitutes an imminent or actual health hazard;
- (2) Operations, facilities, or EQUIPMENT in the FOOD ESTABLISHMENT fail to comply with these regulations;
- (3) The PERMIT HOLDER does not comply with these regulations; or
- (4) Interference with the REGULATORY AUTHORITY in the performance of its duties has occurred.

(C) When the REGULATORY AUTHORITY has suspended a FOOD ESTABLISHMENT PERMIT, the PERMIT HOLDER or PERSON IN CHARGE:

- (1) Will be notified in writing by the REGULATORY AUTHORITY that the FOOD ESTABLISHMENT PERMIT is immediately suspended upon service of the notice;
- (2) Must immediately cease all FOOD service operations until a hearing with the REGULATORY AUTHORITY finds the operation to be in compliance with the requirements of these regulations;
- (3) May request a hearing by filing a written request for a hearing with the REGULATORY AUTHORITY within ten days of receipt of the notice of suspension; and
- (4) Will be notified, if a written request for a hearing is not filed within ten days, that the suspension is sustained.

(D) Any PERSON whose FOOD ESTABLISHMENT PERMIT has been suspended may at any time make written application for a reinspection for the purpose of reinstatement of the PERMIT. The application must include a signed statement explaining how the conditions causing the suspension of the PERMIT have been corrected.

(E) Within two working days following receipt of a written request for a reinspection, the REGULATORY AUTHORITY will make a reinspection, and reinstate the PERMIT if the PERSON is in compliance with these regulations.

(F) The REGULATORY AUTHORITY may adopt and use a PERMIT suspension process different than specified under Paragraphs (B), (C), (D), or (E) of this section.

(G) The REGULATORY AUTHORITY may revoke a FOOD ESTABLISHMENT PERMIT after providing the PERMIT HOLDER an opportunity for a hearing if:

- (1) Serious and repeated violation(s) of any requirements of these regulations have occurred; or
- (2) Repeated interference with, or assault upon a representative of the REGULATORY AUTHORITY in the performance of his/her duty, has occurred.

(H) Before revocation, the REGULATORY AUTHORITY will notify, in writing, the PERMIT HOLDER of the specific reason(s) why the PERMIT is to be revoked. The notice will state:

- (1) That the PERMIT will be revoked at the end of the ten days following the notice unless a written request for a hearing is filed with the REGULATORY AUTHORITY by the PERMIT HOLDER within such ten-day period; and
- (2) If a request for a hearing is not filed by the PERMIT HOLDER within the ten-day period, the revocation of the PERMIT becomes final.

(I) Any PERSON whose FOOD ESTABLISHMENT PERMIT has been revoked by the REGULATORY AUTHORITY, after a period of six months, may:

- (1) Make written application for a new PERMIT; and
- (2) Request a hearing with the REGULATORY AUTHORITY to determine whether a new PERMIT will be issued.

(J) The REGULATORY AUTHORITY may use a PERMIT revocation process different than specified under Paragraphs (G), (H), and (I) of this section.

(K) The REGULATORY AUTHORITY may initiate any one, or a combination of, compliance methods that include, but are not limited to:

- (1) Holding an administrative conference with the FOOD ESTABLISHMENT PERMIT HOLDER or PERSON IN CHARGE;
- (2) Placing the FOOD ESTABLISHMENT on probation;
- (3) Setting conditions for continued operation of the FOOD ESTABLISHMENT, by the PERMIT HOLDER, during the probation period;
- (4) Requiring additional education and/or training of EMPLOYEES, management, and owners of the FOOD ESTABLISHMENT; and
- (5) Completing a HAZARD analysis CRITICAL CONTROL POINT (HACCP) evaluation and requiring monitoring procedures be implemented for CRITICAL CONTROL POINTS identified.

8-602.11 Service of Notice. [WAC 246-215-210]

(A) A notice provided for in these regulations is properly served when it is:

- (1) Delivered to the PERMIT HOLDER;
- (2) Delivered to the PERSON IN CHARGE of the FOOD ESTABLISHMENT; or
- (3) Sent by registered or certified mail, return receipt requested, to the last known address of the PERMIT HOLDER.

(B) A copy of the notice will be filed in the records of the REGULATORY AUTHORITY.

8-603.11 Hearings. [WAC 246-215-220]

(A) The hearings provided for in these regulations will be:

- (1) Conducted by the REGULATORY AUTHORITY or its designee; and
- (2) Conducted at a time and place designated by the REGULATORY AUTHORITY.

(B) The REGULATORY AUTHORITY or designee will:

- (1) Make a final finding based upon the complete hearing record;
- (2) Sustain, modify, or rescind any notice or order considered in the hearing; and
- (3) Furnish a written report of the hearing decision to the holder of the PERMIT.

(C) The REGULATORY AUTHORITY may adopt and use an alternate hearing process.